A BILL FOR AN ACT

CONCERNING REFORMS TO CHILD WELFARE SERVICES PROGRAMS FOR CHILDREN WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

The bill makes changes to a program (program) within the department of human services (department) for children and youth with intellectual and developmental disabilities or co-occurring disorders (children and youth). The scope of rules to be promulgated by the department for the program is expanded to include planning for services
for children and youth who become 18 years of age while in the program; access to behavioral health services; wait list management; process for a child or youth who is at risk for out-of-home placement; and program evaluation.

Current law only allows for a county department of human or social services to submit an application to the program for a child or youth. The bill extends this option to the parent or legal guardian of the child or youth, and extends all notification requirements related to the program to the parent or legal guardian as well.

The bill updates reimbursement provisions so that if a child or youth is not in the custody of a county department of human or social services or the department, the department shall directly reimburse the licensed provider where the child or youth is placed.

Beginning on or before September 1, 2020, the department is required to compile and make public an annual report on the program.

---

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 26-5-102, amend (3) and (4); and add (3.5) as follows:

26-5-102. Provision of child welfare services - system reform goals - out-of-home placements for children and youth with intellectual and developmental disabilities - reporting - rules - definitions. (3) (a) On or before August 1, 2018, the state department shall develop a program to serve children and youth with intellectual and developmental disabilities OR CO-OCCURRING DISORDERS, AS DEFINED IN SUBSECTION (4) OF THIS SECTION, who are placed by county departments of human or social services in a licensed out-of-home setting as defined in section 26-6-102 (33) OR WHO ARE AT RISK OF OUT-OF-HOME PLACEMENT, AS DEFINED IN SUBSECTION (4) OF THIS SECTION, and children or youth committed to or in the custody of the state department.

(b) The state department shall promulgate rules concerning the placement of children or youth in the program. The rules must include, but need not be limited to, quality assurance monitoring; admissions;
discharge planning, including planning for services for children and youth who reach eighteen years of age while in the program; appropriate length of stay; access to behavioral health services; a process for selection criteria and wait list management; program evaluation; and an appeals process for children or youth who are determined to be ineligible for the program.

(c) On or before December 31, 2018, the state department shall contract with a licensed provider for the delivery of services to children and youth with intellectual and developmental disabilities who are placed in the program. The state department shall utilize a request for proposal process to define the scope of the contract and to select the licensed provider.

(d) A county department or the parent or legal guardian of a child or youth that seeks to place a child or youth in the program shall submit an application to the state department for review. The state department shall approve admissions into the program and determine discharge criteria for each placement. A county department or parent or legal guardian of a child or youth that has applied for the admission of a child or youth into the program shall must be notified in writing of a placement approved by the state department.

(e) For the duration of the treatment, as defined in the approval letter from the state department, and for thirty days after the completion of treatment, the county department responsible for the placement of the child or youth in the program must be reimbursed by the state department for one hundred percent of the costs associated with the approved placement. If the child or youth was not placed by a county department or the child or youth is not in the custody of the
COUNTY DEPARTMENT OR THE STATE DEPARTMENT, THE STATE DEPARTMENT SHALL DIRECTLY REIMBURSE THE LICENSED PROVIDER FOR THE PLACEMENT.

(f) The state department shall notify the county department or parent or legal guardian of a child or youth that is responsible for the placement of the child or youth of the date on which the reimbursement eligibility will expire. Upon expiration of the reimbursement eligibility, if the child or youth remains in placement at the facility, the county department or parent or legal guardian of the child or youth that is responsible for the placement of the child or youth is responsible for one hundred percent of the placement costs.

(g) A county department or a parent or legal guardian of a child or youth that has placed a child or youth in the program retains the right to remove the child or youth from the program any time prior to the discharge date specified by the state department.

(h) The state department shall reimburse the provider one hundred percent of the cost of unutilized beds in the program to ensure available space for emergency residential out-of-home placements.

(i) (I) Entities other than county departments, including but not limited to hospitals, health care providers, single entry point agencies, and community-centered boards, may refer a family to voluntarily apply and assist with the application to the state department for admission of the family's child or youth with intellectual and developmental disabilities or co-occurring disorders into the program pursuant to this subsection (3). Such applications will be considered if space is available. However, children and youth with intellectual and developmental disabilities placed
by county departments or the state department shall have priority for
admission to the program; IF DEEMED ELIGIBLE FOR THE PROGRAM BUT
SPACE IS UNAVAILABLE, THE CHILD OR YOUTH WILL BE LISTED ON THE
WAIT LIST.

(II) The state department shall not accept applications for
placement of a child or youth who is exclusively insured by private
insurance. A child or youth who is NOT IN THE CUSTODY OF A COUNTY
DEPARTMENT AND IS dually insured by private insurance and medicaid
and whose residential level of care has been denied by private insurance
may be eligible for services in the program; EXCEPT THAT ATTEMPTS
MUST FIRST BE MADE TO QUALIFY THE CHILD OR YOUTH FOR OTHER
LICENSED OUT-OF-HOME TREATMENT SERVICES THROUGH MEDICAID.

(III) The state department shall promulgate rules to
establish criteria for admission to the program. The criteria may
include, but need not be limited to, risk or acuity of the youth.
In establishing the criteria, the state department shall convene
a stakeholder process to include input from counties, advocacy
organizations, community-centered boards, hospitals, and other
interested community members.

(IV) The state department shall promulgate rules to
establish the application process for a child or youth who is at
risk of out-of-home placement but who is not in the custody of
a county department.

(j) Any entity defined in subsection (3)(i) of this section that
receives placement approval from the state department shall contract
directly with the provider for such placement and is responsible for the
costs associated with the placement. The state department shall
DIRECTLY REIMBURSE THE LICENSED FACILITY FOR ALL PLACEMENTS MADE PURSUANT TO THE PROGRAM.

(j.5) FOR A CHILD OR YOUTH WHO IS NOT IN THE CUSTODY OF A COUNTY DEPARTMENT, THE STATE DEPARTMENT IS NOT EXPECTED TO PROVIDE INDIVIDUALIZED CASE MANAGEMENT SERVICES FOR SUCH CHILD OR YOUTH WHO IS SEEKING TO GAIN ELIGIBILITY TO THE PROGRAM. FOR A CHILD OR YOUTH WHO IS IN THE CUSTODY OF A COUNTY DEPARTMENT, APPROPRIATE CASE MANAGEMENT SERVICES, REFERRALS, AND SUPPORT MUST CONTINUE IN PARTNERSHIP WITH THE STATE DEPARTMENT.

(k) The state department may maintain up to three open beds specifically for children and youth in the custody of a county or committed to or in the custody of the state department who may need services on an emergency basis.

(3.5) ON OR BEFORE SEPTEMBER 1, 2020, AND ON OR BEFORE EACH SEPTEMBER 1 THEREAFTER, THE STATE DEPARTMENT SHALL POST A PUBLICLY AVAILABLE REPORT ON ITS WEBSITE CONCERNING THE PROGRAM ESTABLISHED PURSUANT TO THIS SECTION FOR CHILDREN AND YOUTH WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES OR CO-OCCURRING DISORDERS. THE STATE DEPARTMENT SHALL MAKE EVERY EFFORT TO PROVIDE AVAILABLE BASELINE DATA FROM THE PROGRAM’S INITIAL YEAR OF SERVICE FOR THE PURPOSE OF THE REPORTS REQUIRED BY THIS SUBSECTION (3.5). NOTWITHSTANDING THE PROVISIONS OF SECTION 24-1-136 (11)(a)(I), THE REPORTING REQUIREMENTS OF THIS SUBSECTION (3.5) CONTINUE INDEFINITELY. THE REPORT MUST INCLUDE, AT A MINIMUM:

(a) NONIDENTIFYING DEMOGRAPHIC INFORMATION ABOUT THE CHILDREN AND YOUTH ACCESSING THE PROGRAM, INCLUDING AGE,
COUNTY OF RESIDENCE, THE NUMBER OF CHILDREN WHO HAVE APPLIED
AND BEEN DENIED, THE COMMON REASONS FOR DENIALS, AND AVERAGE
LENGTH OF TIME SPENT IN THE PROGRAM;

(b) THE AVERAGE LENGTH OF WAIT TIME FOR CHILDREN AND
YOUTH ON THE WAIT LIST;

(c) THE MOST COMMON REASONS FOR DISCHARGE;

(d) AGGREGATED INFORMATION ABOUT THE CHILD'S OR YOUTH'S
EXPECTED PLACEMENT FOLLOWING DISCHARGE;

(e) THE TOTAL NUMBER OF REFERRALS TO THE PROGRAM,
INCLUDING THOSE WHO DO NOT CHOOSE TO BE LISTED ON THE WAIT LIST;

AND

(f) THE MOST FREQUENTLY REFERRING ENTITIES.

(4) As used in this section, UNLESS THE CONTEXT OTHERWISE
REQUIRES:

(a) "AT RISK OF OUT-OF-HOME PLACEMENT" MEANS A CHILD OR
YOUTH WHO:

(I) (A) IS ENTERING THE DIVISION OF YOUTH SERVICES; OR

(B) IS AT RISK OF CHILD WELFARE INVOLVEMENT;

(II) (A) HAS AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY
AS DEFINED IN SECTION 25.5-6-403;

(B) HAS BEEN DIAGNOSED AS HAVING A MENTAL HEALTH
DISORDER, DEFINED AS ONE OR MORE SUBSTANTIAL DISORDERS OF THE
COGNITIVE, VOLITIONAL, OR EMOTIONAL PROCESSES THAT GROSSLY
IMPAIR JUDGMENT OR CAPACITY TO RECOGNIZE REALITY OR TO CONTROL
BEHAVIOR; AND
(C) May require a level of care that is provided in a residential child care facility, inpatient psychiatric hospital, or other intensive care setting outside of the child's or youth's home.

(b) "Co-occurring disorder" means an intellectual and developmental disability, as defined in section 25.5-6-403, and a mental health disorder, defined as one or more substantial disorders of the cognitive, volitional, or emotional processes that grossly impairs judgment or capacity to recognize reality or to control behavior.

(c) "County department" means a county department of human or social services.

(d) "Intellectual and developmental disability" has the same meaning as set forth in section 25.5-6-403.

SECTION 2. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.